

A THEORY OF CONSTITUTIONAL SELF-GOVERNMENT

FREEDOM AND TIME



JED RUBENFELD

Freedom And Time A Theory Of Constitutional Self Government

**Richard Albert, Menaka
Guruswamy, Nishchal Basnyat**



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Freedom and Time Jed Rubenfeld, 2008-10-01 Should we try to live in the present Such is the imperative of modernity Jed Rubenfeld writes in this important and original work of political theory Since Jefferson proclaimed that the earth belongs to the living since Freud announced that mental health requires people to get free of their past since Nietzsche declared that the happy man is the man who leaps into the moment modernity has directed its inhabitants to live in the present as if there alone could they find happiness authenticity and above all freedom But this imperative Rubenfeld argues rests on a profoundly inadequate deforming picture of the relationship between freedom and time Instead Rubenfeld suggests human freedom human being itself necessarily extends into both past and future self government consists of giving our lives meaning and purpose over time From this conception of self government Rubenfeld derives a new theory of constitutional law s place in democracy Democracy he writes is not a matter of governance by the present will of the people it is a matter of a nation s laying down and living up to enduring political and legal commitments Constitutionalism is not counter to democracy as many believe or a pre condition of democracy it is or should be democracy itself over time On this basis Rubenfeld offers a new understanding of constitutional interpretation and of the fundamental right of privacy

Postnational Constitutionalism Paul Linden-Retek, 2023-03-29 At a time when the integration of the European Union s peoples through the rule of law is faltering this book develops a critical theory of postnational constitutionalism Today widely held conceptions of EU law continue to mislead citizens about the nature of political identity sovereignty and agency They lose sight of a critical idea on which post nationalism depends that constitutional self authorship is narrative and the polity is a subject whose identity history and legacy are still in formation Absent this vision EU law reproduces crises of legitimacy the depoliticization of public life emergency rule by executive decree a collapse of solidarity and the rise of nativist movements The book diagnoses this impasse as the product of a problem familiar to modernity reification a process in which social and historical relationships are misattributed as timeless relations among things Reification s shrinking of social dilemmas moral principles and political action to narrow perceptions of the present explains law s role in perpetuating crisis But this diagnosis also points to a remedy It suggests that to sustain the emancipatory potential of EU constitutionalism we must recover law s relationship to time Postnational Constitutionalism Europe and the Time of Law proposes a temporally attuned constitutional theory with principles of anti reification narrative interpretation and non sovereign agency at its centre These principles reimagine essential domains of constitutional order social integration constitutional adjudication and constituent power Spanning various bodies of EU jurisprudence the book devotes particular attention to migration and asylum struggles where questions of solidarity law and belonging are most generative and acute Eloquence and Reason Robert L. Tsai, 2008-12-17 This provocative book presents a theory of the First Amendment s development It reveals the social and institutional processes through which foundational ideas are generated and defends a cultural role for the courts Against

Obligation Abner S. Greene, 2012-04-13 Greene argues that citizens are not morally obligated to obey the law and that officials need not follow prior or higher authority when reading the Constitution The sources of authority in a liberal democracy are multiple the law must compete with other norms Constitutional meaning is not locked in historically or by the Supreme Court Founding Moments in Constitutionalism Richard Albert, Menaka Guruswamy, Nishchal

Basnyat, 2019-10-17 Founding moments are landmark events that break ties with the ancient regime and lay the foundation for the establishment of a new constitutional order They are often radically disruptive episodes in the life of a state They reshape national law reset political relationships establish future power structures and influence happenings in neighbouring countries This edited collection brings together leading and emerging scholars to theorise the phenomenon of a founding moment What is a founding moment When does the founding process begin and when does it end Is a founding moment possible without yielding a new constitution Can a founding moment lead to a partial or incomplete transformation And should the state be guided by the intentions of those who orchestrated these momentous breaks from the past Drawing from constitutions around the world the authors ask these and other fundamental questions about making and remaking constitutions

Israeli Constitutional Law in the Making Gideon Sapir, Daphne Barak-Erez, Aharon Barak, 2013-10-31 In the domain of comparative constitutionalism Israeli constitutional law is a fascinating case study constituted of many dilemmas It is moving from the old British tradition of an unwritten constitution and no judicial review of legislation to fully fledged constitutionalism endorsing judicial review and based on the text of a series of basic laws At the same time it is struggling with major questions of identity in the context of Israel's constitutional vision of a Jewish and Democratic state Israeli Constitutional Law in the Making offers a comprehensive study of Israeli constitutional law in a systematic manner that moves from constitution making to specific areas of contestation including state religion relations national security social rights as well as structural questions of judicial review It features contributions by leading scholars of Israeli constitutional law with comparative comments by leading scholars of constitutional law from Europe and the United States

Routledge Handbook of Constitutional Law Mark Tushnet, Thomas Fleiner, Cheryl Saunders, 2013-06-26 The Routledge Handbook of Constitutional Law is an advanced level reference work which surveys the current state of constitutional law Featuring new specially commissioned papers by a range of leading scholars from around the world it offers a comprehensive overview of the field as well as identifying promising avenues for future research The book presents the key issues in constitutional law thematically allowing for a truly comparative approach to the subject It also pays particular attention to constitutional design identifying and evaluating various solutions to the challenges involved in constitutional architecture The book is split into four parts for ease of reference Part One General issues sets issues of constitutional law firmly in context including topics such as the making of constitutions the impact of religion and culture on constitutions and the relationship between international law and domestic constitutions Part Two Structures presents

different approaches in regard to institutions or state organization and structural concepts such as emergency powers and electoral systems Part Three Rights covers the key rights often enshrined in constitutions Part Four New Challenges explores issues of importance such as migration and refugees sovereignty under pressure from globalization Supranational Organizations and their role in creating post conflict constitutions and new technological challenges Providing up to date and authoritative articles covering all the key aspects of constitutional law this reference work is essential reading for advanced students scholars and practitioners in the field

The Time of Popular Sovereignty Paulina Ochoa Espejo,2015-09-10 Democracy is usually conceived as based on self rule or rule by the people and it is this which is taken to ground the legitimacy of the democratic form of government But who constitutes the people Democratic political theory has a potentially fatal weakness at its core unless it can answer this question satisfactorily In *The Time of Popular Sovereignty* Paulina Ochoa Espejo examines the problems the concept of the people raises for liberal democratic theory constitutional theory and critical theory She argues that to solve these problems the people cannot be conceived as simply a collection of individuals Rather the people should be seen as a series of events an ongoing process unfolding in time She then offers a new theory of democratic peoplehood laying the foundations for a new theory of democratic legitimacy

University of Chicago Law Review: Volume 80, Number 4 - Fall 2013 University of Chicago Law Review,2014-01-02 This fourth issue of 2013 features articles from internationally recognized legal scholars and extensive research in Comments authored by University of Chicago Law School students Contents of Vol 80 No 4 include ARTICLES Bankruptcy Law as a Liquidity Provider by Kenneth Ayotte David A Skeel Jr Impeaching Precedent by Charles L Barzun Copyright in Teams by Anthony J Casey Andres Sawicki Inside or Outside the System by Eric A Posner Adrian Vermeule REVIEW ESSAY Francis Lieber and the Modern Law of War by Paul Finkelman COMMENTS Having Their Cake and Eating It Too Post emancipation Child Support as a Valid Judicial Option by Lauren C Barnett Equal Opportunity Federal Employees Right to Sue on Title VII and Tort Claims by Kristin Sommers Czubkowski Using Severability Doctrine to Solve the Retroactivity Unit of Analysis Puzzle A Dodd Frank Case Study by Hannah Garden Monheit I Didn t Do It Third Party Debtors and the Securities Law Violation Exception to Discharge by Hillel Nadler Super Contacts Invoking Aiding and Abetting Jurisdiction to Hold Foreign Nonparties in Contempt of Court by Julia K Schwartz Taking Leases by Nicholas Spear Disability Claims Guidance Documents and the Problem of Nonlegislative Rules by Frederick W Watson Quality ebook editions feature active Contents linked footnotes and linked URLs in notes

Sovereignty in Action Bas Leijssenaar,Neil Walker,2019-07-18 Sovereignty originally the figure of sovereign then the state today meets new challenges of globalization and privatization of power

The Political Value of Time Elizabeth F. Cohen,2018-03 Analyses of why precise dates and quantities of time become critical to transactions over citizenship rights in liberal democracies

On Brexit Tawhida Ahmed,Elaine Fahey,2019-12-27 Timely and engaging this topical book examines how Brexit is intertwined with the concepts of justice and injustice Legal scholars across a range of subjects and

disciplines utilise a multitude of case studies from consumer law asylum law legal theory public law and private law in order to explore the impact of Brexit on our ideas of justice The book as a whole aims to engage with the methodology lexicon and explicitness of analytical perspectives in relation to Brexit

The Struggle for Democracy Christopher Meckstroth, 2015 Revolutionaries counter revolutionaries and reformers the world over appeal to democracy to justify their actions But when political factions compete over the right to act in the people's name who is to decide Although the problem is as old as the great revolutions of the seventeenth and eighteenth centuries events from the Arab Spring to secession referendums suggest that today it is hardly any closer to being solved This book defends a new theory of democratic legitimacy and change that provides an answer Christopher Meckstroth shows why familiar views that identify democracy with timeless principles or institutions fall into paradox when asked to make sense of democratic founding and change Solving the problem he argues requires shifting focus to the historical conditions under which citizens work out what it will mean to govern themselves in a democratic way The only way of sorting out disputes without faith in progress is to show in Socratic fashion that some parties' claims to speak for the people cannot hold up even on their own terms Meckstroth builds his argument on provocative and closely argued interpretations of Plato Kant and Hegel suggesting that familiar views of them as foundationalist metaphysicians misunderstand their debt to a method of radical doubt pioneered by Socrates Recovering this tradition of antifoundational argument requires rethinking the place of German idealism in the history of political thought and opens new directions for contemporary democratic theory The historical and Socratic theory of democracy the book defends makes possible an entirely new way of approaching struggles over contested notions of progress popular sovereignty political judgment and democratic change

Beyond Origins Angélica Maria Bernal, 2017-06-30 Beyond Origins challenges the common view of foundings as singular extraordinary moments of political origin and creation Engaging with cases of founding across political traditions from classical Greece to contemporary Latin America the book argues that it is only through pragmatist understandings of democratic origins that we can realize the potential for radical democratic change

Democracy of Expression Andrew T. Kenyon, 2021-06-17 Drawing from multiple scholarly fields Kenyon examines free speech's positive dimensions of enablement and how they can be pursued

Reasons and Intentions Bruno Verbeek, 2016-12-05 There are a number of problems in philosophy that seem to share a similar possible solution Why do promises and contracts bind Why ought citizens and judges obey the law and Can we realize the gains to be made from cooperation All three problems as well as some others share a possible solution in the form of rational internal commitment Reasons and Intentions is a state of the art overview of the relevant positions on the possibility of such commitment including critical ones The introduction provides a survey of the central problem of the volume how the will can bind itself and still be instrumental in nature and the various positions which are further examined in the contributions Addressing the question of the relation between intentions and action the considerations which make an intention rational and how this translates into

our conception of moral agency this book brings together specially commissioned essays by the leading scholars in the field

Untimely Democracy Gregory Laski, 2018 Untimely Democracy offers an exploration of how one of the bleakest periods in American racial history provided fertile terrain for a radical reconstruction of America's most fundamental assumptions about democracy

Political Theory and Australian Multiculturalism Geoffrey Brahm Levey, 2008-06-01 Multiculturalism has been one of the dominant concerns in political theory over the last decade To date this inquiry has been mostly informed by or applied to the Canadian American and increasingly the European contexts This volume explores for the first time how the Australian experience both relates and contributes to political thought on multiculturalism Focusing on whether a multicultural regime undermines political integration social solidarity and national identity the authors draw on the Australian case to critically examine the challenges possibilities and limits of multiculturalism as a governing idea in liberal democracies These essays by distinguished Australian scholars variously treat the relation between liberalism and diversity democracy and diversity culture and rights and evaluate whether Australia's thirty year experiment in liberal multiculturalism should be viewed as a successful model

The Economic Dynamics of Law David M. Driesen, 2012-06-18 This book offers a theory of law and economics focused on change over time and aimed at avoiding systemic risks

Routledge Handbook of Comparative Constitutional Change Xenophon Contiades, Alkmene Fotiadou, 2020-06-11 Comparative constitutional change has recently emerged as a distinct field in the study of constitutional law It is the study of the way constitutions change through formal and informal mechanisms including amendment replacement total and partial revision adaptation interpretation misuse and revolution The shift of focus from constitution making to constitutional change makes sense since amendment power is the means used to refurbish constitutions in established democracies enhance their adaptation capacity and boost their efficacy Adversely constitutional change is also the basic apparatus used to orchestrate constitutional backslide as the erosion of liberal democracies and democratic regression is increasingly affected through legal channels of constitutional change Routledge Handbook of Comparative Constitutional Change provides a comprehensive reference tool for all those working in the field and a thorough landscape of all theoretical and practical aspects of the topic Coherence from this aspect does not suggest a common view as the chapters address different topics but reinforces the establishment of comparative constitutional change as a distinct field The book brings together the most respected scholars working in the field and presents a genuine contribution to comparative constitutional studies comparative public law political science and constitutional history

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